

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

CYNTHIA BRELAND BUCKHEISTER,) Civil Action No.: 4:10-2450-TER
)
Plaintiff,)
)
v.)
)
) ORDER
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
Defendant.)
)

On November 21, 2012, Counsel for the Plaintiff, Beatrice E. Whitten, filed a motion for attorney's fees and costs pursuant to the Social Security Act, 42 U.S.C. §406(b). The motion seeks reimbursement for counsel's representation in the captioned matter in the amount of \$9,208.00,¹ which amounts to twenty-five percent of the past-due benefits withheld by the Social Security Administration for attorney's fees. (Doc. #42 with attachments).

The Defendant has indicated in his response to Plaintiff's motion that he does not object to a reasonable award of attorney's fees under Section 406(b) but notes that this court has already

¹ Plaintiff's counsel asserts that Social Security issued a fully favorable decision awarding Plaintiff benefits beginning April 23, 2007. Counsel further asserts that on October 28, 2012, the Commissioner of Social Security issued a Notice stating that the agency had withheld \$9208.50 of the claimant's past-due benefit amount in anticipation of attorney fees. A copy of the fee arrangement Plaintiff entered into with counsel to pay 25% of her past due benefits as attorney fees is attached to the motion. Plaintiff was previously awarded \$2,658.00 by this court in EAJA fees. Plaintiff's counsel asserts that this amount will be subtracted from the 25% fee due, to reduce the amount of attorney fees payable by Plaintiff, leaving \$6,550 in fees due from the Plaintiff.

awarded Plaintiff \$2,658.01 in attorney fees under the EAJA and that Plaintiff's counsel is required to refund Plaintiff the lesser of the two fees.

The Court has reviewed Counsel's fee petition and the signed fee agreement that was submitted with the petition, and finds Counsel's request for fees reasonable.

Accordingly, **IT IS ORDERED** that Plaintiff's motion for attorney's fees pursuant to the Social Security Act, 42 U.S.C. §406(b), is granted in the amount of \$9,208.50. Counsel shall refund to Plaintiff any EAJA fees awarded after receipt of fees pursuant to this order.

AND IT IS SO ORDERED.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

January 7, 2013
Florence, South Carolina